

## Second Formal Furlough Notice - Full-time Excepted Employee

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Sent: January 23, 2019 10:35:10 AM EST  
Received: January 23, 2019 10:35:10 AM EST  
Attachments: Unemployment\_Compensation\_SF8.pdf

\*\*\*\*\*OPENING THIS EMAIL MESSAGE IS ACKNOWLEDGEMENT OF RECEIPT\*\*\*\*\*

Annual funding for the government expired at midnight on December 21, 2018. In the absence of either a fiscal year (FY) 2019 appropriation, or a continuing resolution, NASA may incur no further financial obligations except those related to the of “excepted” activities as defined in the Office of Management and Budget (OMB) memorandum for Heads of Executive Departments and Agencies dated November 17, 1981. For NASA, almost all “excepted employees” are those involved in protection of life or property.

You are needed to perform excepted activities on a full-time basis during the shutdown. However, there are several circumstances in which you will be placed into furlough status, effective January 23, 2019:

1. Holidays. On any federal holiday that occurs while the shutdown is in effect, you will be placed in furlough status unless you are directed to report to work. If a holiday during this period occurs on a day you are not regularly scheduled to work (e.g., your regular day off under an Alternative Work Schedule), the normal rules for an “in lieu of” holiday will apply – you will be off and in a furlough status on the “in lieu of” holiday.
2. Time off. During a furlough due to lack of appropriations, no paid leave of any kind may be taken. Therefore, if you receive approval to be absent from work during this period, you will be placed in furlough status for the period of the absence (if permitted, brief absences may instead be managed by adjusting your work schedule).
3. Reduction or cessation of excepted work. If the need for the excepted activities you are assigned to perform reduces or ends, you will be placed into furlough status for any days you are not assigned to perform these activities. You will be informed of this change in status either verbally or in writing; you will not receive another furlough notice.

This furlough is not expected to exceed 30 calendar days and may end at any time. During any period in which you are furloughed, you are directed to regularly monitor public media, call 1-877-677-2123, and check <<http://www.opm.gov>> [www.opm.gov](http://www.opm.gov) and <<https://nasapeople.nasa.gov/shutdown/shutdown.htm>>

<https://nasapeople.nasa.gov/shutdown/shutdown.htm> for the latest information regarding Agency operating status. You are expected to report for duty on your next regularly scheduled work day after an FY2019 appropriation or a continuing resolution is approved.

During any period when you are furloughed, you will be in a nonpay, nonduty status. During this time, you will not be permitted to serve NASA as an unpaid volunteer. You must remain away from your worksite, and may not work at home or in another location. While you are furloughed, NASA laptop computers, smartphones and other resources used for remote access should not be used, except as directed to communicate regarding excepted activities. If you work remotely, please remember to use the Virtual Private Network (VPN) whenever you are conducting NASA excepted services during the shutdown. If you use NASA IT resources, such as your e-mail account, for personal use under the acceptable use policy, you should make other arrangements if you want to receive such communications while furloughed (e.g., change the destination for personal e-mail).

During the shutdown period, you may perform only the excepted activities identified and authorized by your supervisor, during the time periods you are assigned to work. The work may be performed at your official duty station or, if appropriate and approved, at an alternate duty station. You are required to document your time worked and submit it as directed.

If other employees in your competitive level (i.e., with nearly identical jobs) are not being furloughed, or are not being furloughed for the same amount of time, this is because they are performing excepted activities. Those employees whose services are required during the furlough period have been notified of their "excepted" status. However, it is possible that any employee may be recalled to duty during the furlough to perform excepted activities.

Leave that has been approved for a day designated as a furlough day will be cancelled and you will be placed on furlough status for that day. This includes any type of paid time off (e.g., annual, sick, or military leave; credit hours; compensatory time off). If you are on military leave on a specific furlough day, you will not receive your civilian pay for that day.

If you received prior approval for leave without pay (LWOP), you will be carried in LWOP status during the furlough period. If the approved LWOP period ends while the shutdown is still in progress, you will be placed in furlough status at that point. If your approved LWOP is intermittent, or scheduled to begin after the furlough starts, you will be carried on LWOP status for those specific days, and on furlough status for all other days.

During the furlough period, you may be eligible for unemployment benefits, in accordance with the laws of the state where your official duty station is located. You can find your local office at <http://www.servicelocator.org/OWSLinks.asp> for more information. When applying for unemployment benefits, you will need a copy of this furlough notice and the attached SF 8, Notice to Federal Employee about Unemployment Insurance.

You may appeal this action to the Merit Systems Protection Board (MSPB) if:

- \* You are in the competitive service and have completed a probationary or trial period or one year of current continuous employment in the competitive service under other than a temporary appointment;
- \* You are in the excepted service (other than a preference eligible employee or a Schedule C appointee) and have completed a probationary or trial period under an initial appointment pending conversion to the competitive service, or have completed two years of current continuous service in the same or similar positions in NASA as the one you now hold, under other than a temporary appointment limited to two years or less;
- \* You are a preference eligible employee in the excepted service who has completed one year of current continuous service in the same or similar positions in NASA as the one you now hold; or
- \* You are a career appointee in the Senior Executive Service (other than a reemployed annuitant) and believe that the requirements of 5 CFR 359, Subpart H, or the Agency's procedures, have not been correctly applied. Career SES

appointees may inspect the regulations and records pertinent to this action at the following location:

<[https://www.ecfr.gov/cgi-bin/text-](https://www.ecfr.gov/cgi-bin/text-idx?SID=cddb0792fe42a9eeab54d73c2cf7a553&mc=true&node=sp5.1.359.h&rgn=div6)

[idx?SID=cddb0792fe42a9eeab54d73c2cf7a553&mc=true&node=sp5.1.359.h&rgn=div6](https://www.ecfr.gov/cgi-bin/text-idx?SID=cddb0792fe42a9eeab54d73c2cf7a553&mc=true&node=sp5.1.359.h&rgn=div6)> <https://www.ecfr.gov/cgi-bin/text-idx?SID=cddb0792fe42a9eeab54d73c2cf7a553&mc=true&node=sp5.1.359.h&rgn=div6>

(Please note that “excepted service” is not the same as being “excepted” from the furlough. To determine whether you are in the competitive service or the excepted service, see Item #34 on your most recent Standard Form 50, Notification of Personnel Action.)

If you wish to appeal to the MSPB, you must file the appeal within 30 calendar days after the effective date of your furlough, or 30 days after the date you receive this notice, whichever is later. You may file an appeal electronically at <<https://e-appeal.mspb.gov/>> <https://e-appeal.mspb.gov/> or obtain the Merit System Protection Board Appeal Form (MSPB 185) and instructions on-line at <<http://www.mspb.gov/appeals/forms.htm>> <http://www.mspb.gov/appeals/forms.htm>. MSPB guidance and regulations are at <<http://www.mspb.gov/appeals/appeals.htm>> <http://www.mspb.gov/appeals/appeals.htm>. If you do not have internet access, please contact Veronica Marshall at 202-603-1985 to request the MSPB regulations and appeal form. Employees have a right to representation in this matter and may be represented by an attorney or other person of their choosing.

MSPB requires an appeal to be filed with the MSPB regional or field office serving the area where your duty station was located when the action was taken. You can find your local office at <<https://www.mspb.gov/contact/contact.htm>> <https://www.mspb.gov/contact/contact.htm>.

Bargaining unit employees may grieve this action in accordance with the applicable negotiated agreement between National Aeronautics and Space Administration (NASA) Headquarters, and NASA Headquarters Professional Association, Local 9, International Federation of Professional and Technical Engineers (IFPTE) or may appeal to MSPB in accordance with the procedures outlined above, but not both. For information on filing a grievance under the negotiated grievance procedure, contact Barry Epstein.

If you are not covered under either MSPB appeal rights or a negotiated grievance procedure, you may file a grievance under NASA's Grievance System (NASA Procedural Requirement 3771.1).

If you believe that this action has been taken in reprisal for whistleblowing disclosures, and you are otherwise entitled to appeal this furlough to the MSPB (as described above), you may articulate allegations about whistleblower reprisal in your appeal. Alternately, you may seek corrective action before the U.S. Office of Special Counsel (OSC), <<http://www.osc.gov/>> [www.OSC.gov](http://www.osc.gov/). The OSC process may ultimately include an appeal to the MSPB however, such an appeal will be limited to resolving the claim of reprisal for whistleblowing and will not otherwise consider the merits of the furlough action. If you are not otherwise entitled to appeal this furlough directly to the MSPB and you believe the furlough has been taken in reprisal for whistleblowing disclosures, you must seek corrective action through the OSC.

Finally, you have the right to file a complaint of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC) if you believe that this action is based on unlawful discrimination because of your race, color, religion, sex, national origin, age, disability, or retaliation for previous participation in the EEO process. If you elect to file a discrimination complaint, you must contact an EEO Counselor within forty-five (45) calendar days of the effective date of this action. To file an EEO complaint, or to obtain additional information about the EEO complaint procedure, contact Crystal Moten, Director, Equal Opportunity and Diversity Management at 202-807-8069.

You may also raise the issue of discrimination in an appeal to the MSPB. However, you may file only under one of these procedures (MSPB appeal or EEO complaint), and whichever appeal/complaint is filed first will be considered an election to proceed in that forum. If you choose to file a discrimination complaint, the MSPB may ultimately hear an

appeal of the NASA resolution or final action on that complaint in accordance with procedures described in the MSPB regulations.

During the shutdown, NASA personnel who might answer your specific questions may also be furloughed. After the shutdown ends, please contact Veronica Marshall at 202-603-1985 for assistance. In the meantime, please see the Office of Personnel Management Pay & Leave Furlough Guidance page for more information. You may access the information at <<https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/>> <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/> and then click the “Shutdown Furlough” tab.

We regret the necessity for this furlough and will make every effort to keep you informed as additional information regarding NASA’s funding becomes available. This notice will become invalid upon passage of NASA’s appropriation or a continuing resolution.

OCHCO/ Headquarters Human Resources Office

NASA Headquarters

300 E Street, SW

Washington, DC 20546

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